

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

United States of America)
)
)
 v.) CR No. 10-09
)
)
Michael Avila,)
Defendant.)
)

ORDER

WILLIAM E. SMITH, United States District Judge.

On March 16, 2010, Defendant Michael Avila pleaded guilty to being a felon in possession of a firearm. Defendant thereafter filed an objection to his presentence report (PSR). A sentencing hearing was held on October 1, 2010. The hearing was continued pending the First Circuit's decision in United States v. Holloway, 630 F.3d 252 (1st Cir. 2011), which was expected to impact the Court's ruling on Defendant's objection. Holloway was decided on January 21, 2011, and a continuation of Defendant's sentencing hearing was held on March 1, 2011. In light of Holloway, the Court indicated that it would continue the balance of the sentencing hearing and issue a written decision on Defendant's objection before proceeding with additional argument.

It has now come to the Court's attention that the First Circuit has a pending case, United States v. Dancy, No. 09-2628,

that squarely presents the issue argued by Defendant in his objection. According to the government, the First Circuit heard argument in Dancy on February 7, 2011.

The Court has determined that a ruling on Defendant's objection should be postponed until Dancy is decided. At that time, the Court will hold a hearing and will rule on Defendant's objection.

IT IS SO ORDERED.

/s/ William E. Smith

William E. Smith
United States District Judge
Date: March 7, 2011